

## **STATEMENT OF PURPOSE**

### **RS21688C1**

The purpose of the legislation is to update Chapter 8, Title 19, Idaho Code, to achieve uniformity in the provision of counsel at public expense as well as technical consistency.

The amendments replace the phrase, "needy person," with the phrase, "indigent person," and remove statutory cross-references to code sections that have been repealed.

The legislation ensures consistent and uniform appointment of counsel, in conformance with the Sixth Amendment, by revising the definition of the term, "serious crime," to include offenses which carry the mere possibility of incarceration. It further does so by providing a uniform standard of eligibility.

The amendments restrict the use of information provided to establish eligibility, thereby guarding the Fifth Amendment privilege against self-incrimination. They also limit recovery of the costs of counsel to those associated with convictions. Finally, the bill expands data reporting requirements to all attorneys that provide representation at public expense.

### **FISCAL NOTE**

The proposed legislation would have no impact on the state general fund. The fiscal impact to counties cannot be specifically calculated. Currently, counties spend more than \$16 million annually on indigent defense. The present statutes contain no guidelines or presumptions for determining whether a defendant is entitled to representation at public expense, and courts can only exercise their best judgment as to whether a defendant meets the general standard of being "unable to provide for the full payment of an attorney and all other necessary expenses of representation." The guidelines and presumptions in this legislation should result in greater uniformity and predictability in making these determinations. The best estimate, however, is that the net costs to the counties will remain approximately the same.

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